

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY
407 Clinton Street – P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

**MINUTES
CITY OF DELAWARE CITY
MAYOR AND COUNCIL MEETING
MONTHLY MEETING
Monday, July 20, 2020 at 6:30 p.m.
DELAWARE CITY FIRE COMPANY
815 FIFTH STREET**

MONTHLY MEETING OF MAYOR & COUNCIL

CALL TO ORDER

Mayor Johnson called the July 20, 2020 meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE

Mayor Johnson led the Pledge of Allegiance

ROLL CALL

In addition to Mayor Johnson, Vice Mayor Malinowski, Council Members Renoll, Konkus and Buchheit were present. City Manager and Chief of Police Baylor, Finance Manager Graham, City Solicitor Walton and City Secretary Loveland were also present.

Council Member Titus was not present.

ACTION UPON MINUTES

Council Member Konkus made the motion to accept the June 24, 2020 Meeting Minutes as written. The motion was seconded by Council Member Renoll. A vote was taken, all members were in favor. Minutes were accepted as written.

Certification of the Election – Reading by April DeBenedictis, Chairperson of Election Board

Pursuant to the Delaware City Charter, the 2020 City of Delaware City Municipal Election was held on June 30, 2020 between the hours of 12 Noon and 8 PM at the Delaware City Library in the Community Room to elect three (3) Council Members for the term of two (2) years each.

In total there were 190 voters. The candidates received the following number of votes each:

COUNCILMEMBERS (3 seats)

Betty (Tranthum) Barrett 149 votes

Dale Slotter 98 votes

Elizabeth (Beth) Konkus 123 votes

Margaret (Megan) Titus 119 votes

Council Member Buchheit asked if the absentee ballots were counted and how many. The election board said they were counted and there were 5 mail in votes.

Swearing-In of Newly Elected Council Members –

Betty (Tranthum) Barrett, Betty Barrett took the Oath of Office, sworn in by Mayor Johnson.

Elizabeth (Beth) Konkus, Beth Konkus took the Oath of Office, sworn in by Mayor Johnson

Margaret (Megan) Titus, Council Member Titus was not present. She will be sworn in at the next meeting.

Council Member Renoll left his seat and Newly Elected Council Member Barrett took her seat at the Council table.

Swearing-in of the Vice Mayor-

Mayor Johnson asked for a motion to nominate a Vice Mayor.

Council Member Barrett made a motion to appoint Vice Mayor Malinowski as Vice Mayor. The motion was seconded by Council Member Konkus. All were in Favor, Motion Passed.

Vice Mayor Malinowski took the Oath of Office of Vice Mayor, Sworn in by Mayor Johnson.

POLICE REPORT

Chief of Police Baylor gave the Police Report for June 2020.

Chief of Police Baylor announced that Chief of Police Winch has resigned and a new Chief of Police will be named at the next Mayor & Council Meeting.

- On Thursday, June 4th, DCPD investigated a report of criminal mischief in the 200 block of Maple Avenue at Fort DuPont. Someone spray painted one of the buildings in that location.
- On Monday, June 8th DCPD investigated a report of a criminal mischief and theft in the unit block of Reybold Drive. Someone emptied the property owner's trash can on their lawn and stole the trash can.
- Sometime between Sunday, June 21st and Tuesday, June 23rd, someone entered the model house located at Fort DuPont. While inside, they vandalized the property and removed some sporting equipment.

CITY MANAGER'S REPORT

- The City has entered into a Memorandum of Agreement with the St. Anthony's Community Center and the Delaware Department of Health and Social Services to allow the distribution of nutritious meals (hot meals) to homebound elderly and disabled persons in Delaware City and the surrounding communities.
- Earlier this year, Mayor Johnson and I were informed the Little League and Babe Ruth Programs were no longer going to be held at the Buddy Sadler Field. Both programs were moved to the fields behind Wilbur Elementary School. Last month the City entered into an agreement with a group called the Diamond Rental

Kings out of Middletown, Delaware to use and maintain the fields for the summer and fall season.

- Recently Britney Loveland and I had a conference call with the Office of State Planning regarding the DDD (Downtown Development District) Program. We are in collaboration in effort to promote the DDD program to business and property owners in effort to capitalize on this program. Anyone interested in the program is encourage to call Town Hall and schedule a meeting.
- The Delaware City News Letter will resume this month. The Town Hall Staff are currently working to distribute the News Letter this month. Look for the News Letter later this week. The News Letter distribution schedule for the 2020 will be in September and November.
- Police Chief Winch has resigned from his position effective immediately. A new Police Chief will be named at the Mayor and Council meeting in August.
- The Code Enforcement Officer has issued the following violations for the months of June and July
 - High weeds and grass – 8
 - Garbage/Debris – 2
 - Permits – 1
 - Roof/Drainage – 1
 - Parking on grass – 6
 - Inoperable/unregistered vehicles – 1
 - Accessory Structure (shed/fences) - 2
- To ensure that we are following the Governor’s Executive Order regarding Social Distancing, all public meetings (Planning Commission, Historic Preservation Commission, and the Board of Adjustment) are being held in the gymnasium at the Delaware City Community Center until further notice.

Council Member Buchheit asked if City Manager Baylor has established ownership of the brush and weeds along the Canal. City Manager Baylor said he is still waiting on direction for that.

Council Member Buchheit asked if Council can get copies of Code Violations. City Manager Baylor said No, he feels there are privacy concerns doing that and he doesn’t feel comfortable. Council Member Buchheit said they did under the last City Manager.

Council Member Buchheit said there has been an ongoing problem on Washington Street with dumping furniture, the last episode was for about 2 weeks and Trashcans sit out the whole week. City Manager Baylor said that is frustrating to him too and he said he made multiple calls to our trash company; we should be getting a quicker response in the future.

Council Member Konkus asked why Blue Water was not present at tonight’s meeting. City Manager Baylor said there are other requirements that Blue Water has to meet, such

as DNREC, Fire Marshall, DelDot, FEMA approvals before they can come before our Council. They were not ready to come before Council at this July meeting.

Council Member Konkus asked if when they come to Council can Council ask questions or does Council just have to Vote on it. City Manager Baylor said they have already gotten approval from the Planning Commission. Now they have to go through all the other processes he mentioned. Once they are ready to present before Council, Questions can be asked but Council will Vote to accept if it meets all requirements or Deny if it doesn't. Council Member Konkus asked if the requirements they have to meet are what are currently in our Code. City Manager Baylor said that is correct. Council Member Konkus asked how we make changes to our current process. City Manager Baylor said for anyone already started in this process they will only have to follow the process that was in place when they started, any changes would be for future.

Council Member Konkus asked if we have an Environmental issue like a Buffer and we don't have a Buffer Code but the County does, what rule would we follow. City Solicitor Walton said Delaware City.

Council Member Buchheit asked if the Grass Dale Center is State Park. City Solicitor Walton said the answer to that is No. He read from the Ft. DuPont Enabling Legislations, Section 47-35. Parkland has a Federal 6F Designation.

CITY SOLICITOR'S REPORT

City Solicitor Max Walton gave the Solicitors Report for the Month.

First, I would like to congratulate the newly reelected council member and the councilpersons that have been consecutively reelected. It is a pleasure working with all of you.

Just as a reminder, the protocol for requesting work to be done by my office is for the request to go through the City manager first so he can keep track of the work that is ongoing.

And as we are starting a new Council session, I would like to remind all members of Council that they should, from time to time, review City Code sections 1-26 through 1-29.

Those sections relate to fair and equal treatment, conflicts of interest, intra council relationships and the like.

My office has been busy with Delaware City matters of late. We have completed, or are in the process of completing, the following items/matters:

- Acted as counsel for the BOA in two hearings and drafted two BOA decisions.
- Worked with the City engineer on an easement issue which will be before Council probably in August.

- Chris Griffiths has been working on the Artesian PSC matter and is the process of responding to a FOIA request.
- My assistant is working on a booklet of NAICS codes for inclusion on the website for Delaware City.
- We are working on a police matter relating to a public nuisance issue.
- We are working on a formal interpretation regarding what matters are required to go to the HPC and which ones should not.
- We edited the site plan ordinance which is on the agenda for discussion but not introduction this evening.
- My office also prepared a memo on whether Delaware City Council has the right or authority to approve a state road construction improvement.
- I conferred with the City Manager regarding the matter on the agenda for the executive session this evening.
- Our office has assisted on an employment related matter.
- The Mayor, via the City Manager, has asked me to prepare a timeline of the Fort DuPont project – which is underway.
- We are working on a code interpretation regarding the 180 day rule in the floodplain ordinance.
- We are also working on the annual report for the OSPC on our planning initiatives as required by statute.
- Covid has delayed finalization of the comprehensive plan update, which has been approved by the Planning Commission. Our goal will be to have that on for a first reading on August for a final vote and adoption in September.
- I rendered a code interpretation of a development plan relating to a non-conforming use and development proposal on 70 Clinton.
- We also had a miscellaneous request for a zoning verification from a group from Florida, which we declined to issue because it sought legal advice.

ACTION UPON FINANCE REPORT

Finance Manager Graham presented the financial report as of June 30, 2020 to Council.

(Full report is attached)

Questions/Comments from Council

Council Member Barrett asked where we stand with collecting back Water bills and Property Tax collections. Finance Manager Graham said the City Manager has started some processes before Covid-19 hit in regards to delinquent Property Taxes. In regards to delinquent Water, the last bills from Artesian just went out so once we complete the end of this month she will know the delinquencies and she can look into best practices for collecting.

Council Member Buchheit said it looks like we are doing well with Real Estate Transfer Tax, is that from Ft. DuPont. Finance Manager Graham said both Ft. DuPont and not Ft. DuPont.

Council Member Buchheit asked how we are doing collecting Hotel Tax. Finance Manager Graham said we are not currently collecting the Lodging Tax. Council Member Buchheit asked if that will apply to Air B&B as well and how will we monitor it. Finance Manager Graham said nothing has gone forward since the Lodging Tax was passed; she will need to establish some type of return filing so we will be able to keep up with compliance.

City Manager Baylor said we are in the process of getting a list of people who have outstanding debt with Property Tax and we will send them a letter and by the September meeting we will bring that list to Council, As long as Council approves.

APPOINTMENTS

None

ANNOUNCEMENTS/COMMUNICATIONS

None

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

Lynn Dilliplane – Historic Preservation Commission

She let everyone know that in the monthly News Letter this is a message from the Historic Preservation Commission on the procedures for fixing up your home in the Historic District.

Council Member Barrett asked how they get the News Letter. City Manager Baylor said it will be mailed this month because of Covid-19 right now.

Council Member Konkus asked if we can Email it to everyone. City Manager Baylor said we can get a list together for anyone wanting emails.

OLD BUISNESS

There was no Old Business on the agenda

NEW BUISNESS

Discussion of A Proposed Site Plan Approval Ordinance

City Solicitor Walton explained the Site Plan Ordinance and how it came about. There was a large project that came before the City that technically was not a “Subdivision”. Ultimately City Solicitor Walton determined that they did need to follow the Subdivision guidelines because of the addition of a street. With this happening it brought up a hole in our Delaware City Code. This Draft Ordinance went before the Planning Commission to determine what the Site Plan ordinance should look like and what development would be required to go through a Site Plan Review. City Solicitor Walton Explained that what you have before you tonight is an Ordinance that says if you have a unit of 4 or more units or construct a building of 15,000 sq. feet or more you have to follow the same procedure that are set forth in the Subdivision Code with a few small changes. He feels it plugs a hole in our Code for large projects. He Says it’s being brought to Councils attention to see if there were any comments from them.

Council Member Buchheit asked what the difference is between this and the Planning Commission getting it. City Solicitor Walton explained that this ensures things will go through the Planning Commission process.

Council Member Konkus said 54-40 is worded larger scale and asked if we should define larger scale, City Solicitor Walton Said its defined in 54-41A and he can put “see 54-41A”

Council Member Konkus said for C, Concept Plan Review it’s down as Voluntary, she feels it should be Mandatory and she believes it should come before Council in the preliminary stages. City Solicitor Walton said it’s Delaware Law, in the current Ordinance; the Subdivision is Voluntary or By Rights. Council Member Konkus asked how we make it so it has to be brought to Council before Planning to see if it’s something the City even wants. City Solictior Walton said you have to have a process and everything in the Code cannot be a conditional use. The standards are in the Zoning Code, it can’t be based off of liking it or not. Council Member Kokus asked if we can make it not voluntary, City Solicitor Walton said yes you could make it mandatory but it would not come before Council.

Council Member Konkus asked on #4 where it mentions submission procedure, a major preliminary Site, it should say Major Preliminary Site Plan.

Council Member Konkus also said it says the City Manager has all the say in what can be built. City Solicitor Walton said the City Manager does not have the say, that is set forth

by Council in the Zoning code. With this Ordinance it would go before Council where now it does not.

City Manager Baylor asked if it comes before Council is it just to be approved or not because conditions have been or not been met, or is it to disapprove the type of project. City Solicitor Walton said if a Plan submitted conforms to regulations that are established by the City, there is no discretion or choice to approve it. The Council Job is to approve if it meets all requirements or they can say it does not meet all and there is additional review.

Council Member Konkus asked that on submission requirements that she would like to add an H for Environmental Impact. City Solicitor Walton said okay.

Council Member Konkus said under submission requirements, C number 10, what is Jurisdictional Determination. City Solicitor Walton said that JD establishes where the Wetlands are.

Council Member Konkus said under the fees, it shows 10-50,000. she would like it to be 10,000-50,000 so there is no confusion. City Solicitor Walton said he will fix that.

Vice Mayor Malinowski asked if this is subject to PLUS Review. City Solicitor Walton said no, this is totally a Delaware City thing, PLUS is for Comp Plans and Larger projects.

Vice Mayor Malinowski asks what triggers a PLUS Review. City Solicitor Walton said a rezoning, size of projects, Comp Plan amendments. There is wording in the Ordinance of PLUS Review in the event there is a PLUS Review required.

Vice Mayor Malinowski asked if there are provisions in there about a Buffer for the Wetlands. City Solicitor Walton said no. City Solicitor Walton said if you want a Buffer for your Wetlands that needs to be a revision to your Site Plan and Subdivision. Vice Mayor Malinowski would like an Ordinance to put in a Buffer.

Council Member Buchheit asked who brought this topic to the table. City Solicitor Walton said the Vice Mayor.

Vice Mayor Malinowski asked if this will be done in the next two months. City Solicitor Walton said yes. Vice Mayor said do we anticipate a plan coming through before then. City Solicitor Walton said no. If something did, there is a mechanism that could apply.

Council Member Buchheit asked if this will apply to any property or is this mainly for the Fort DuPont properties, He said there is not much that is developable on this side. City Solicitor Walton said it would apply to all.

City Solicitor Walton said he appreciates the comments, and now it will go to Planning Commission again and it will come back as a first reading.

MAYOR & COUNCIL COMMENTS

Council Member Barrett-

- Thanked everyone for coming out to vote!
- Wants to finish the Bus Shelter project she started during her pervious term.
- Wants to create an Ordinance to Preserve and protect our Wetlands.
- She would like someone representing the Ft. DuPont be present at the Council meetings.

City Manager Baylor suggested they make a resolution for the Ft. DuPont representatives to be present.

Council Member Konkus-

- Wants to go back to New Business and make a motion to ask Ft. DuPont to be present at the Council Meetings.

Council Member Konkus made a motion to go back to New Business; the motion was seconded by Council Member Barrett. All were in favor, motion passed.

Council Member Konkus made a motion to urge preferably Jeff Randol from Ft. DuPont to attend our Monthly Council meetings with updates. The motion was seconded by Council Member Barrett, all were in favor, motion passed.

Council Member Buchheit asked if the Minutes from the Ft. DuPont meetings are on our website. City Manager Baylor said we can work on that.

- Thanked everyone for voting for her.
- Next meeting the Superintendent from Colonial School District Jeffery Menzer will be present.

Council Member Buchheit

- He wants to know the status of the temporary pump on Harbor Street. City Manager Baylor said he will follow up with the engineer on that.
- Attended a Ribbon Cutting for the new Hair Salon in Town.
- The bushes at Veterans Point are becoming public restrooms; there have been toilet paper rolls found. Possibly someone sleeping there.

City Manager Baylor said he is going to have more frequent trash pickups in the park.

Vice Mayor Malinowski

- Welcome back to Betty

Council Member Titus

Not Present

Mayor Paul Johnson

- Delaware City Day is not looking very good. Mayor Johnson will confirm ASAP.
- Water Sale was finalized on the 15th with the Public Service Commission. Over the next 18 months they will be working on capital improvement projects. They will be putting in an Interconnectivity Line between the City and Ft. DuPont. There should also be an increase in the water pressure. Selling the water system is going to give the City a financial cushion the City has not had for a while.

City Manager Baylor explained that the Police have dealt with several mental health issues lately and most recently an officer attempted to stop someone from jumping off the reedy point bridge but was unsuccessful. He wants to bring awareness to mental health issues and if anyone knows anyone struggling with mental health to please reach out to the Delaware City Police Dept.

Council Member Buchheit asked what the final price of the water sale and asked for a break down. Finance Manager Graham said she can get a break down by next meeting.

CITIZENS COMMENTS

Herbert Netsch – Residents since 1969. On July 4, 2020 he witnessed a 2 hour long fireworks displays that made him fear for the safety of resident's lives, homes and their properties. He doesn't believe that it's allowed per the City's Ordinance. He would like something done about this.

Erica Lindsey 905b Fifth Street – She asked to have approximately 10 minutes to speak instead of the allotted 3 minutes per person for citizen's comment. She spoke about her concerns at Ft. DuPont and the Sale of the Grass dale Center. She explained that she sent a letter to all Delaware City Residents outlining what is taking at the park and summarized for everyone what was in the letter.

(Full Letter available upon request)

Tim Dilliplane- Asked when the Gazebo in the park will be complete. Mayor Johnson said it should be done this week. Mr. Dilliplane asked if we will still be putting up a new Gazebo. City Manager Baylor said yes, they just wanted to refurbish the existing gazebo.

Ray Fruytier-Wants to know who has a final say so when it comes to our wetlands in the city. City Solicitor Walton said FEMA. He wants the Wetlands left alone.

Lena Pusey 314 Washington St- Concerned about the Wetlands and wants to protect the Town from Commercialism.

Unknown Resident- Thanked Council Member Konkus for sending out information about the Election because she had a hard time finding information on the website. She feels we need to do more in keeping the community connected.

Mayor Johnson pointed out that the “Meet the Candidate Night” was cancelled due to Covid-19.

Mayor Johnson Recessed the Regular meeting at 8:20 P.M. and asked for a motion to go into Executive Session.

***Executive Session** -Executive session pursuant to 29 Del. C. § 10004 (b) (4) (“Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation”); and (b) (6) (“Discussion of the content of documents, excluded from the definition of “public record” in § 10002 of this title where such discussion may disclose the contents of such documents.”) – Solicitor Memorandum dated April 23, 2020.*

Vice Mayor Malinowski made the motion that was seconded by Council Member Konkus. All members were in favor, Motion Passed.
The Regular Mayor and Council meeting was called to order at 8:58 P.M.

Council Member Buchheit made a motion to require the refinery to go before the Board of Adjustments in reference to the chain link fence at the foot of Washington Street. Vice Mayor Malinowski seconded the motion. A Roll call vote was taken that resulted in 3 Ayes and 1 Nay, Motion passed.

ADJOURNMENT

Mayor Johnson asked for a Motion to adjourn. Vice Mayor Malinowski made the motion, *Mayor Johnson adjourned the meeting at 9:00 p.m.*

*Respectfully submitted,
Britney Loveland
City Secretary*